

REMARKS

The present application has been reviewed in light of the Office Action dated December 31, 2008. Claims 1-5, 9-36, and 38-50 are presented for examination, of which Claims 1 and 38 are in independent form. Claims 1, 38, 42, 44, 48, and 50 have been amended to define aspects of Applicants' invention more clearly. Favorable reconsideration is respectfully requested.

The Office Action states that Claims 49 and 50 are objected to because of informalities. More particularly, the Office Action states that "Claims 49 and 50 are referring to a method claim, instead of referring to a system claims as recited in claim 1" (*see* page 3). Claim 1 is directed to a "system for administering incentive offers." Claim 49 is directed to the "system of claim 1, wherein . . ." and Claim 50 is directed to the "system of claim 49, wherein . . ." (*see* Amendment of October 20, 2008). Accordingly, Applicants submit that the objections to Claims 49 and 50 were obviated in the Amendment of October 20, 2008 and respectfully request withdrawal of the objections to Claims 49 and 50.

The Office Action states that Claims 42, 44, 48, and 50 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicants have carefully reviewed and amended Claims 42, 44, 48, and 50, as deemed necessary, to ensure that they conform fully to the requirements of Section 112, first paragraph, with special attention to the points raised in section 13 of the Office Action. Support for the claim amendments may be found, for example, in paragraph [0025] of the specification. It is believed that the rejections under Section 112, first paragraph, have been obviated, and their withdrawal is therefore respectfully requested.

The Office Action states that Claims 42, 44, 48, and 50 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants have carefully reviewed and amended Claims 42, 44, 48, and 50, as deemed necessary, to ensure that they conform fully to the requirements of Section 112, second paragraph, with special attention to the points raised in section 16 of the Office Action. Support for the claim amendments may be found, for example, in paragraph [0025] of the specification. It is believed that the rejections under Section 112, second paragraph, have been obviated, and their withdrawal is therefore respectfully requested.

The Office Action states that Claims 1-4, 9-36, and 38-50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over by U.S. Patent No. 6,907,566 (“*McElfresh*”); that Claims 39-41 and 45-47 are rejected under § 103(a) as being unpatentable over *McElfresh* in view of U.S. Patent No. 6,018,718 (“*Walker*’718”); that Claims 3, 4, and 24-36 are rejected under § 103(a) as being unpatentable over *McElfresh* in view of U.S. Patent Application Publication No. 2001/0018665 (“*Sullivan*”); that Claims 42 and 48 are rejected under § 103(a) as being unpatentable over *McElfresh* in view U.S. Patent No. 6,598,024 (“*Walker*’024”); and that Claims 5, 43, 44, 49, and 50 are rejected under § 103(a) as being unpatentable over *McElfresh* in view of Official Notice. For at least the following reasons, Applicants respectfully traverse these rejections and submit that amended independent Claims 1 and 38, together with the claims dependent therefrom, are patentably distinct from the cited art.

McElfresh is understood to relate to a method for optimizing placement of an advertisement on a webpage such that an incidence of a user clicking an event associated with the advertisement is more likely to occur (*see* col. 1, lines 8-14). As set forth in detail in the Amendment of October 20, 2008, nothing has been found in *McElfresh* that is believed to teach or suggest that elements within the advertisement are modified after selection.

More particularly, nothing has been found in *McElfresh* that is believed to teach or suggest a system for administering incentive offers that includes “a presentation engine communicatively coupled to the retrieval engine for presenting the one or more incentive offers to an offeree, wherein the retrieval engine is configured to select the one or more incentive offers based at least in part on a set of rules defining particular contexts required to present the plurality of incentive offers, stored in the central repository, to specific offerees, and wherein the presentation engine is configured to receive the one or more retrieved offers from the retrieval engine and then, after selection by the retrieval engine, modify at least one element of at least one retrieved offer based on an offeree’s trait and a context in which the one or more retrieved offers are to be presented,” as recited in Claim 1. A review of *Walker*’718, *Sullivan*, and *Walker*’024, has failed to reveal anything that, in Applicants’ opinion, would remedy the deficiencies of *McElfresh* discussed above, as applied against the claims herein. Accordingly, Applicants submit that Claim 1 is patentable over the cited art and respectfully request withdrawal of the rejection of Claim 1 under 35 U.S.C. § 103(a).

Independent Claim 38 includes features similar in many relevant respects to those of Claim 1 and is believed to be patentable over the cited art for at least the reasons discussed above with respect to Claim 1. The other rejected claims in the present application depend from Claim 1 or Claim 38 and are submitted to be patentable over the cited art for at least the same reasons. Because each dependent claim also is deemed to define an additional aspect of the invention, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

This Amendment After Final Action is believed clearly to place the present application in condition for allowance. Therefore, entry of this Amendment under 37 C.F.R.

§ 1.116 is believed proper and is respectfully requested, as an earnest effort to advance prosecution and reduce the number of issues. Should the Examiner believe that issues remain outstanding, it is respectfully requested that the Examiner contact Applicants' undersigned attorney in an effort to resolve such issues and advance the case to issue.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and an early passage to issue of the present application.

No petition to extend the time for response to the Office Action is deemed necessary for this Amendment. If, however, such a petition is required to make this Amendment timely filed, then this paper should be considered such a petition and the Commissioner is authorized to charge the requisite petition fee to Deposit Account 06-1205.

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

/Jonathan Berschadsky/
Jonathan Berschadsky
Attorney for Applicants
Registration No. 46,551

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200